



## Directive on the Protection of personal information and Access to information

<p><b>Department responsible:</b> General Administration</p>	<p><b>Approved by:</b>  _____</p> <p style="text-align: center;">Director-General</p>
<p><b>Reference:</b> An Act respecting access to documents held by public bodies and the protection of personal information (L.R.Q., c. A-2.1)</p>	<p><b>Effective:</b> January 2003 <b>Amended:</b> September 9, 2013</p>

The *Act respecting access to documents held by public bodies and the protection of personal information* (the Act), adopted by Quebec, applies to all public bodies, including the Kativik School Board. The Act is primarily aimed at ensuring the openness of decisions taken by public bodies by giving everyone the right to access some documents while protecting the confidentiality of certain personal information.

This directive deals with the rules that the Kativik School Board must respect with regard to the management of personal information, whether at the time of hiring new employees or when managing the files of current employees or students.

**The information contained in this directive is a summary of the applicable legislation and is provided solely for guidance and should neither be quoted nor considered as having legal value. It may become obsolete without advanced notice.**

### Protection of personal information

#### **1. Premises**

In order to protect personal information, the Act requires that public bodies meet a number of obligations regarding the collection, conservation and communication of personal information.

- 1.1 [application](#) The Kativik School Board (KSB) may not disclose nor allow access to a file containing personal information. This type of information remains confidential and, except in rare instances, it may not be divulged without the consent of the person concerned.

1.2 [definition of personal](#) The term **personal information** means any information that concerns an individual where such individual is identifiable. The following are examples of types of information, that when linked to an individual, constitute personal information:

- a) name
- b) date of birth
- c) age
- d) personal address and telephone number
- e) social insurance and driver's permit numbers
- f) medical reports and records
- g) curriculum vitae
- h) absence of an employee (and reasons)
- i) dates of an employee's vacations
- j) disciplinary record
- k) performance

### **Procedure**

1A) [another example](#) *When an employee is absent for health reasons, the simple fact of informing a third party who wishes to speak to this employee that the employee is absent because of an illness is communicating personal information. Such information is considered to be confidential since it goes beyond what is simply linked to the duties of an employee. One should only say that the employee is absent, without further comment as to the reason.*

## **2. Exceptions**

2.1 [exceptions](#) Under the Act, KSB may disclose personal information pertaining to an individual in the following cases:

- a) the individual has given consent for disclosure;
- b) the personal information has public relevancy;
- c) KSB is authorized to do so by virtue of a law.

2.2 [consent of individual](#) Personal files such as academic, disciplinary, employment and health records, are confidential and, in principle, only the individual to whom they pertain may have access to them.

Any individual may consent to the disclosure of all personal information pertaining to himself. Such consent should be made in writing, although this is not mandatory. In the case of a student who is a minor, consent may be given by the holder of parental authority, or by the student if aged fourteen or over. Under the collective agreements, employees may, in writing, authorize their union representatives to consult their files.

- 2.3 [information with public relevancy](#) Some personal information may lose its confidential nature and become accessible to the public. For example:
- a) **with respect to management personnel and elected members of KSB:** name, title, duty, classification, salary, address and telephone number at their usual workplace within KSB, not their personal address and telephone number;
  - b) **with respect to other employees of KSB:** name, title, duty, classification, salary scale, address and telephone number at their usual workplace within KSB;
  - c) **with respect to a person that is party to a service contract with KSB:** the name of that person as well as the conditions of the service contract with KSB<sup>1</sup>.

- 2.4 [authorization by virtue of a law](#) KSB shall not release personal information without the consent of the person concerned except namely in the following situations:
- a) to a body responsible by law for the prevention, detection or repression of crime or statutory offences (police, detective or attorney general) if the information is required for purposes of prosecution for violating a law applicable in Quebec;
  - b) to the attorney of KSB if the information is necessary for purposes of judicial proceedings;
  - c) to a person to whom the information must be disclosed because of the urgency of a situation that threatens the life, health or safety of the person concerned;
  - d) to a person authorized by the Commission d'accès à l'information to use the information for study, research or statistics purposes.

In addition KSB may also release personal information, without the consent of the persons concerned, in order to prevent an act of violence, including suicide, where there is reasonable cause to believe that there is an imminent danger of death or serious bodily injury to a person or an identifiable group of persons.

The information may in such case be released to any person exposed to the danger or that person's representative, and to any person who can come to that person's aid.

- 2.4.1 [prior ascertainment](#) Before releasing personal information pursuant to the previous section, KSB must ascertain that the information is necessary for the purposes contemplated in the said paragraphs and meets the requirements.

[refusal](#) Where KSB has not ascertained that the information is necessary for such purposes or, where such is the case, that an urgent and dangerous situation exists, it must refuse to release the information.

*Amended on September 10, 2013*

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<sup>1</sup> Consult the law to see the related applicable conditions

### 3. Information for hiring purposes

- 3.1 [request for references](#) Several departments of KSB are often solicited by third parties for information concerning employees and former employees. Often, these third parties are potential employers who wish to obtain performance, salary and other personal information held by KSB.

The only information that may be disclosed without the consent of the person are those listed in 2.3 a) for management and elected members, and 2.3 b) for all other employees.

- 3.2 [authorization to disclose information](#) Any other personal information not listed in 2.3 may not be disclosed to potential employers without the consent of the concerned individual. Consequently, one must ensure that the individual has authorized the third party to communicate with KSB in order to obtain personal information.

### 4. Consultation of documents

- 4.1 [access to documents](#) Individuals who wish to access or rectify their personal information shall submit a request to the responsible authority designated by KSB.

During office hours, an employee who has requested an appointment 2 working days in advance shall be allowed by the Board to consult his personal file. Unless it is agreed otherwise, the Board must grant the appointment no later than 5 working days following the request. The Board is not responsible for producing copies of personnel files.

Support staff employees are entitled to consult their files twice a year.

*Collective agreements: Teachers( 5-6.08)  
Professionals (5-8.00) and Support Staff (8-4.04)*

### 5. Conservation of documents

- 5.1 [place where files are kept](#) The active personal files of the employees must be kept at the head office of KSB.

- 5.2 [accuracy](#) Personal information must be up-to-date, accurate and complete before it is used.

[disciplinary measure](#) Any disciplinary measure that has become obsolete must be taken out of the file.

- 5.3 [security of documents](#) Adequate security measures must be taken to ensure the confidentiality of information.

- 5.4 [filing cabinets](#) Filing cabinets containing files with personal information must be kept under lock.

- 5.5 [access](#) Only personnel working in authorized departments that can justify their need to know such information have access to these files and may

consult them.

Personnel who have such access must be clearly identified by their title and duties in a personal information file managed by the responsible authority designated by KSB. No one else is automatically entitled to access.

**Procedure**

5A) responsible authority *The Council of Commissioners has designated the Associate Secretary-General as the responsible authority for access to information. Consequently, he oversees the application of the law and answers all questions related to same.*

## **Access to information**

Any individual or corporate entity may request access to certain documents held by KSB without having to justify who they are or to give a reason for such request. The applicant may or may not be the person to whom the document directly pertains.

### **6. Premises**

6.1 [application](#) The Act applies to all documents held by KSB, whether in a written, graphic, sound, visual, computerized or other form.

#### **Procedure**

6A) [examples of documents](#) *Documents such as minutes, adopted financial statements and, once a decision has been taken, the various analysis drafted by employees of the organization or by consultants are accessible to any one upon request.*

### **7. Exceptions**

7.1 [exceptions](#) The Act allows KSB to refuse access to documents that:

- a) have an impact on intergovernmental relations;
- b) are related to negotiations between public organizations;
- c) are confidential documents related to collective agreement strategies;
- d) are part of a legal opinion on a particular case.

However, the Act requires KSB to refuse access to documents that include the following information:

- a) personal information (see Section 3);
- b) the details of a bid on a call for tender before all bids are submitted.

7.2 [exception for the holding of elections](#) The Act provides an exception for KSB during the holding of elections. For example, electoral lists of that would otherwise constitute personal information are not subject to the law.

7.3 [students' files](#) Students' files include personal information and access to such information is restricted to expressly authorized personnel of KSB, to personnel holding parental authority and to investigators working for the Human Rights Commission and the Youth Protection Commission of Quebec.

Members of a CLSC and other intervenors are not entitled to consult a student's file unless authorized by a student entitled to give consent or by the holder of parental authority.

7.4 [blocked out information](#) The information contained in a document that permits the identification of a person other than the applicant, is confidential. It must be blocked out before any one is given access to the document.

## **8. Application of this directive**

- 8.1 [previous provisions](#) The present directive replaces all other directives of the Board pertaining to this subject, while respecting the policies adopted by the Council of Commissioners where applicable. If such policies are adopted, the provisions of these policies will be integrated into this directive for the benefit of the reader.
- 8.2 [responsibility](#) Any person referred to in this Directive must abide by all its provisions and all managers of the School Board are responsible to ensure that all its provisions are applied and respected.

The Associate Secretary-General of KSB is the person responsible for providing support in the interpretation of this Directive and to ensure its revision when necessary..